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**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**FAO-4170-2008 (O&M)  
Reserved on : 17.09.2025  
Date of Pronouncement: 22.09.2025**

New India Assurance Company Limited .....Appellant

Vs.

Neena Marry and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Rajneesh Malhotra, Advocate,  
for the appellant-Insurance Company.

Mr. Sarbjit Singh Khaira, Advocate,  
for respondents No.1 to 3.

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**SUDEEPTI SHARMA J. (ORAL)**

1. The present appeal has been preferred against the award dated 13.08.2008 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal'), whereby the claimants/respondents No.1 to 3 were granted compensation to the tune of Rs.1,62,000/- along with interest at the rate of 6% per annum on account of death of Mukhtiar Masih and the appellant-Insurance Company as well as respondents No.4 & 5 (owner and driver of offending vehicle) were held liable to pay the aforesaid amount of compensation, jointly and severely.



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**FACTS NOT IN DISPUTE**

2. The brief facts of the case are that on 03.06.2004, respondent No.3-Jasvir along with her husband-Mukhtiar Masih, son-Rajiv Kumar and daughter-Neena Marry, were travelling from Batala to Chandigarh in a Maruti Car bearing registration No.PB-018-G-0131, which was being driven by respondent No.2-Denial. When they reached near Beas Bridge at about 5:30 a.m., a Canter bearing registration No.PB-021-D-9602, being driven by its driver in a rash and negligent manner, came from the opposite side and forcefully hit the car. Due to the said impact, the car was pushed to the right side and its front portion was badly damaged. As a result of the accident, respondent No.3-Jasvir, her husband-Mukhtiar Masih and son-Rajiv Kumar sustained multiple injuries and were admitted to Satyam Hospital, Trauma Center, Kapurthala Road, Jalandhar. Respondent No.3-Jasvir remained admitted in the hospital till 10.06.2004. Rajiv Kumar remained under treatment till 25.07.2004, but unfortunately succumbed to his injuries on that day at about 12:30 p.m. Similarly, Mukhtiar Masih remained admitted in the hospital till 11.06.2004 and succumbed to his injuries on the same day at about 02:40 p.m. In this regard, FIR No.26 dated 06.06.2004 was registered at Police Station Dhillwan under Sections 279, 337, 338, 427 and 304-A of the Indian Penal Code, 1860.

3. Upon notice of the claim petition, respondents appeared through their counsel and filed their written reply denying the factum of accident/compensation.



4. From the pleadings of the parties, the learned Tribunal framed the following issues:-

- “1. Whether Mukhtiar Masih died in road side accident on 03.06.2004 at about 5.30 A.M. in the area of Village Dhillwan while traveling in Maruti Car No.PB-018G-0131 driven by respondent No.2 when Cater No.PB-021-D-9602 driven by the driver had hit against the car driven by the Denial? OPP.*
- 2. Whether the claimants are the legal representatives and were dependent upon the deceased? OPP*
- 3. Whether the claimants are entitled to compensation? If so how much and from which of the respondents? OPR*
- 4. Whether driver of the car was not holding a valid and effective driving license? OPR*
- 5. Whether petition is bad for non-joinder of necessary parties? OPR*
- 6. Whether petition is not maintainable in the present form? OPR*
- 7. Relief.”*

5. Thereafter, both the parties have led their respective evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.1,62,000/- along with interest at the rate of 6% per annum on account of death of Mukhtiar Masih by claimants/respondents No.1 to 3 and the appellant-Insurance Company as well as respondents No.4 & 5 (owner and driver of offending vehicle) were held liable to pay the aforesaid amount of compensation, jointly and severally. Hence, the present appeal.

#### **SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT**

7. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal has erred in law and on facts in holding that the



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accident in question arose out of the use of the alleged offending vehicle.

Therefore, he prays that the present appeal be allowed.

8. *Per contra*, learned counsel for respondents No.1 to 3 submits that learned Tribunal has rightly held appellant-Insurance Company and respondents No.4 and 5 liable to pay the compensation to claimants/respondents No.1 to 3, jointly and severally. He, therefore, prays that the present appeal be dismissed.

9. I have heard learned counsel for the parties and perused whole record of this case with their able assistance.

10. The relevant portion of the award dated 13.08.2008 passed by the learned Tribunal is reproduced as under:-

*“26. Onus to prove issue No.1 is on the claimants. In order to prove issue No.1, one of the claimants Jasvir tendered her affidavit Ex.A-1 in which she has deposed that on 03.06.2004 she along with her husband Mukhtiar Masih and her son Rajiv Kumar and daughter Miss Neena Marry were going to Chandigarh from Batala in a Maruti Car bearing No. PB-018G-0131 which was being driven by its driver Denial son of Deep Masih, resident of Village Ajula Tehsil and District Gurdaspur. She also deposed that when the car reached in the area of Village Dhillwan, District Kapurthala, at about 05.30 a.m. a Canter bearing its registration No.PB-021-D-9602 which was being driven by its driver rashly and negligently, came from the opposite side and hit with the car, resultantly the car was badly damaged and she as well as her husband Mukhtiar Masih and son Rajiv Kumar received multiple injuries. She further deposed that her huabnd Mukhtiar Masih remain admitted at Satyam Hospital in Trauma Center, Kapurthala Road, Jalandhar and succumbed to the injuries on 11.06.2004 at about 02.40 p.m. from the testimony of claimant, it is clear that Mukhtiar Masih died on account of injuries received in road side accident on 03.06.2004 at about 5.30 p.m. in the area of village Dhilwan while traveling in Maruti Car No. PB-018G-0131 which was being driven by*



*respondent No.2, while canter bearing No. PB-021-D-9602 was driven by driver who had hit against the car driven by Denial. On the other hand, there is no evidence on the file, to rebut the testimony of the claimant. Hence, it is clear that the Mukhtiar Masih died on account of injuries received in road side accident on 03.06.2004. Therefore, this issue is decided in favour of the claimants and against the respondents.”*

11. From a perusal of the impugned award, it is evident that the claim petition was instituted under Section 163-A of the Motor Vehicles Act, 1988. Compensation under this provision is determined on the basis of a structured formula and is in the nature of a final award, dispensing with the requirement of proving negligence on the part of the driver or owner of the offending vehicle.

12. The record further reveals that the learned Tribunal has duly appreciated the evidence adduced before it and correctly reached the conclusion that the injuries sustained by the claimant arose out of the use of the motor vehicle in question, thereby satisfying the statutory requirement under Section 163-A of the Act.

13. It is further borne out from the award that the claimant-Jasvir, examined as AW-1, entered the witness box and narrated the entire chain of events leading to the accident. She categorically deposed that the accident had occurred on account of the use of the vehicle in question. Her testimony remained unimpeached and unshaken during the course of proceedings. The learned Tribunal, therefore, was justified in placing reliance upon her evidence.

14. The record also makes it manifest that no material evidence was brought forth by the appellant-Insurance Company to dislodge or rebut the



testimony of the claimant-Jasvir. In absence of any contrary evidence, the factual matrix as deposed by the claimant-Jasvir stands firmly established.

15. It is a trite legal position, as laid down by the Hon'ble Supreme Court in **United India Insurance Company Ltd. v. Sunil Kumar, Civil Appeal No. 9694 of 2013**, that claims under Section 163-A of the Motor Vehicles Act are governed by the principle of "no-fault liability." Consequently, once it is established that the accident arose out of the use of a motor vehicle, the claimant becomes entitled to compensation without the necessity of proving negligence. The relevant extract of the judgment passed in **Sunil Kumar's case (supra)** is reproduce as under: -

*"8. From the above discussion, it is clear that grant of compensation under Section 163-A of the Act on the basis of the structured formula is in the nature of a final award and the adjudication thereunder is required to be made without any requirement of any proof of negligence of the driver/owner of the vehicle(s) involved in the accident. This is made explicit by Section 163A(2). Though the aforesaid section of the Act does not specifically exclude a possible defence of the Insurer based on the negligence of the claimant as contemplated by Section 140(4), to permit such defence to be introduced by the Insurer and/or to understand the provisions of Section 163A of the Act to be contemplating any such situation would go contrary to the very legislative object behind introduction of Section 163A of the Act, namely, final compensation within a limited time frame on the basis of the structured formula to overcome situations where the claims of*



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*compensation on the basis of fault liability was taking an unduly long time.*

*In fact, to understand Section 163A of the Act to permit the Insurer to raise the defence of negligence would be to bring a proceeding under Section 163A of the Act at par with the proceeding under Section 166 of the Act which would not only be self-contradictory but also defeat the very legislative intention.*

*9. For the aforesaid reasons, we answer the question arising by holding that in a proceeding under Section 163A of the Act it is not open for the Insurer to raise any defence of negligence on the part of the victim.”*

16. In light of the above discussion, this Court finds that the findings recorded by the learned Tribunal are based on correct appreciation of evidence and sound application of law. The award does not suffer from any legal infirmity or perversity warranting interference in appellate jurisdiction.

17. Accordingly, the present appeal, being devoid of merits, stands **dismissed**.

18. Pending application(s), if any, also stand disposed of.

**(SUDEEPTI SHARMA)**  
**JUDGE**

22.09.2025

Virender

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes/No